

CULS 5209A

Special Topics in Law and Critical Humanities

Fall 2024



Ferdinand Brütt (1849-1936), *Before the Judges* (1903), oil on canvas

Instructor:
Pang Laikwan
lkpang@cuhk.edu.hk
Fall 2024

TA:
Zowie Li
zhuoyueli@cuhk.edu.hk

10:30 am to 1:15 pm, Saturday
Venue: CKB UG03

Course Description

In this course, we examine the relations between law and humanities with the aim to complicate both. Arguably, laws can be found in all human societies across time and culture, and they are considered essential to keep human society in order. But there are many ways of conceptualizing law, and we must be constantly asking about the basis of law to make it relevant to our needs. Here we focus not only on the law but the essential concepts behind it, including justice, rights, violence, and order, etc. While law is the tool of the state to govern, marginalized individuals and groups also rely on it to bring about changes. We work with some important writings in critical theories and critical legal studies about law and society, with the hope of developing a macro theorization of law instead of lost in the technicality of legal details. We also study closely related cultural texts to explore how law is conceptualized and challenged under different legal cultures. Acknowledging the universal dimensions of law in modern society, we also take seriously cultural and political differences, and we pay particular attention to the ideology and expressions of law in Hong Kong and China.

Learning Outcomes

Students are expected to gain a general understanding of the basic concepts and dilemmas in jurisprudence, and they will develop a critical perspective and confidence in approaching issues related to legality and justice. They will also understand the cultural dimensions of law, particularly related to power, identity, and the state. As this course is an interdisciplinary one, students will also cultivate a sensibility to develop new horizons of knowledge and criticality under a complex world of knowledge and practice.

Schedule

Introduction

September 7

1. Introduction: Law and Critical Humanities

- Balkin, Jack M and Sanford Levinson. 2006. "Law and the Humanities: An Uneasy Relationship." *Yale Journal of Law & the Humanities* 18, no. 2: 155-185.

September 14

2. The Rule of Law

- Tamanaha, Brian Z. 2012. "Formal Theories" and "Substantive Theories." In *On the Rule of Law: History, Politics, Theory*, 91-113. Cambridge University Press.
- Kahn, Paul W. 2001. "Freedom, Autonomy, and the Cultural Study of Law." *Yale Journal of Law and the Humanities* 13, no. 1: 141-174.
- Sarat, Austin, Matthew Anderson, and Catherine O Frank eds. 2010. *Law and the Humanities: An Introduction*. Cambridge: Cambridge University Press, 1-18.

Western and Chinese Legal Traditions

September 21

3. Screening and Discussions: *Twelve Angry Men* (1957, dir. Sidney Lumet)

September 28

4. Agamben and the Western Legal Tradition

- Agamben, Giorgio. 2005. *State of Exception*. Trans. Kevin Attell. Chicago: University of Chicago Press, 1-31.
- Feldman, Leonard C. 2010. "The Banality of Emergency: On the Time and Space of 'Political Necessity'." In Austin Sarat ed. *Sovereignty, Emergency, Legality*, 136-164. Cambridge: Cambridge University Press.
- Mills, Catherine. 2004. "Agamben's Messianic Politics: Biopolitics, Abandonment and Happy Life." *Contretemps: an online journal of philosophy* 5: 42 - 62.

October 5

5. From Confucian-Legalism to Socialism

- Lee, Haiyan. 2023. *A Certain Justice: Toward an Ecology of the Chinese Legal Imagination*. Chicago: Chicago University Press, 1-31.
- 洪濤. 2018. 「20 世紀中國的法治概念與法家思想」 (一) 《政治思想史》 vol 9, no. 1: 13-45.
- Neagli, Jackson. 2023. "Bend, Don't Break: China's Approach to the International Human Rights Order." *Harvard International Law Journal* 64, no. 2: 489-524.

October 12

6. Law and Imperialism

- Benton, Lauren and Lisa Ford. 2016. *Rage for Order: The British Empire and the Origins of International Law, 1800-1850*. Cambridge, MA: Harvard University Press, 148-179.

- Smandych, Russell. 2005. "The Cultural Imperialism of Law." In Hamm, Bernd and Russell Samndych ed. *Cultural Imperialism: Essays on the Political Economy of Cultural Domination*, 267-289. Toronto: University of Toronto Press.
- Ng, Michael. 2022. *Political Censorship in British Hong Kong: Freedom of Expression and the Law (1842–1997)*. Cambridge: Cambridge University Press, 164-189.

October 19 – Class Cancelled, University Orientation Day

Law and Control

October 26

7. Screening and Discussions: *The Sparring Partner* (2022, dir. Tin Ho)

November 2

8. Law and Violence

- Benjamin, Walter. 1921/2013. "Critique of Violence." In Peter Demetz ed. *Reflections: Essays, Aphorisms, Autobiographical Writings*, 277-300. New York: Schocken Books.
- Steiker, Carol S. and Jordan M. Steiker. 2015. "The American Death Penalty and the (In)Visibility of Race." *The University of Chicago Law Review* 82, no.1: 243-294.
- Butler, Judith. 2004. "Indefinite Detention." In *Precarious Life: The Powers of Mourning and Violence*, 42-69. London: Verso.

November 9

9. Law and Fear

- Shklar, Judith. 1989. "The Liberalism of Fear." In Nancy L. Rosenblum ed. *Liberalism and the Moral Life*, 21-38. Cambridge, MA: Harvard University Press.
- Frost, Samantha. 2010. "Fear and the Illusion of Autonomy." In Diana Coole and Samantha Frost ed. *New Materialisms: Ontology, Agency, and Politics*, 158–177. Durham, NC: Duke University Press.
- Luo, Jiajun. 2024. "Authoritarian Legal (Ir)rationality: The Saga of 'Picking Quarrels' in China." *Asian-Pacific Law & Policy Journal* 25, no. 3: 103-171.

Law and Justice

November 16

10. Screening and Discussions: *The Story of Qiuju* (1992, dir. Zhang Yimou)

November 23

11. Meanings of Justice

- Rawls, John. 1973/1999. *A Theory of Justice*. Harvard University Press, 1999, 3-30.
- Rorty, Richard. 1997. "Justice as a Larger Loyalty." In Ron Bontekoe and Marietta Stepaniants eds. *Justice and Democracy: Cross-Cultural Perspectives*, 9-22. Honolulu: University of Hawaii Press.
- Fraser, Nancy. 2009. *Scales of Justice: Reimagining Political Space in a Globalizing World*. New York: Columbia University Press, 1-29.

November 30

12. Law and Love

- Kottman, Paul A. 2017. *Love as Human Freedom*. Stanford, CA: Stanford University Press, 1-11.

- Boltanski, Luc. 2012. *Love and Justice as Competences: Three Essays on the Sociology of Action*. Cambridge, UK: Polity, 104-120.
- Berlant, Lauren. 2011. "A Properly Political Concept of Love: Three Approaches in Ten Pages." *Cultural Anthropology* 26, no. 4: 683-693.

Assessment

10%	Attendance
15%	Class Participation
25%	Group Presentation (20 minutes on one designated article)
50%	Term Paper (3000 – 6000 words, Chinese or English, on a topic related to the course, submit by Dec 12)

Academic Honesty and Plagiarism

Attention is drawn to University policy and regulations on honesty in academic work, and to the disciplinary guidelines and procedures applicable to breaches of such policy and regulations. Details may be found at <http://www.cuhk.edu.hk/policy/academichonesty/>.

With each assignment, students will be required to submit a signed [declaration](#) that they are aware of these policies, regulations, guidelines and procedures.

- In the case of group projects, all members of the group should be asked to sign the declaration, each of whom is responsible and liable to disciplinary actions, irrespective of whether he/she has signed the declaration and whether he/she has contributed, directly or indirectly, to the problematic contents.
- For assignments in the form of a computer-generated document that is principally text-based and submitted via VeriGuide, the statement, in the form of a receipt, will be issued by the system upon students' uploading of the soft copy of the assignment.
- Students are fully aware that their work may be investigated by AI content detection software to determine originality.
- Students are fully aware of the AI approach(es) adopted in the course. In the case where some AI tools are allowed, students have made proper acknowledgment and citations as suggested by the course teacher.

Assignments without a properly signed declaration will not be graded by teachers. Only the final version of the assignment should be submitted via VeriGuide. The submission of a piece of work, or a part of a piece of work, for more than one purpose (e.g. to satisfy the requirements in two different courses) without declaration to this effect shall be regarded as having committed undeclared multiple submissions. It is common and acceptable to reuse a turn of phrase or a sentence or two from one's own work; but wholesale reuse is problematic. In any case, agreement from the course teacher(s) concerned should be obtained prior to the submission of the piece of work.

The copyright of the teaching materials, including lecture notes, assignments and examination questions, etc., produced by staff members/ teachers of The Chinese University of Hong Kong (CUHK) belongs to CUHK. Students may download the teaching materials produced by the staff members/ teachers from the Learning Management Systems, e.g. Blackboard, adopted by CUHK for their own educational use, but shall not distribute/ share/ copy the materials to a third-party without seeking prior permission from the staff members/ teachers concerned.